

# Notice of Allowability

Application No.

09/839,223

Examiner

Brian Ensey

Applicant(s)

TOPHOLM, JAN

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment dated 9/27/04.
2. ☒ The allowed claim(s) is/are 17-43 renumbered 1-27.
3. ☒ The drawings filed on 23 April 2001 and 24 February 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☒ Some\*    c) ☐ None    of the:
  1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
CURTIS KUNTZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

### **DETAILED ACTION**

The following is an examiner's statement of reasons for allowance: The present invention is directed to a hearing aid with a face plate manufactured to a digital model of the user's auditory canal. Independent claims 17, 18, 21, 22, 28, 31 and 36 identify the uniquely distinct feature of a face plate with a matching junction contour, positioning means and engagement means manufactured according to a digital model taken of the user's auditory canal. Independent claim 39 identifies the uniquely distinct feature of receiver vibration absorbing suspension with supporting protrusions co-operating for receiving and holding the receiver and at least one resilient band fixed around the receiver. The closest prior art, Widemar (US6540045) teaches a process for manufacturing, custom-molded ear inserts using three-dimensional image data from a user's auditory canal to provide digitized data and modeling; Voroba (US 4870688) teaches a hearing aid with insertable face plate with engagement means. The prior art fails to anticipate or render the independent claims obvious.

The following references were cited: Schmitt (US 5889874) teaches an ITE hearing aid with a prefabricated faceplate; Juneau (US 6228020) teaches an ITE hearing aid with a soft polymeric body and connecting hard face plate cut to form to the contour of the shell; Olsen (US 6430296) teaches a face plate with a battery opening with a passage for an electronics module; Nassler (US 4879750) teaches a shell with a ventilation channel and ear wax guard; Berger (US 6164409) teaches a hearing aid with a recess mounted wax guard; Yoest (US 5970157) teaches a hearing aid with a wax guard and pipe stub extending inwardly into the shell; Yoest (US 6167141) teaches a tightening protrusion extending along the surface of the hearing aid shell to

Art Unit: 2643

produce a tight fit; and Gore (US 4620605) teaches a hearing aid with a vibration absorbing suspension for the receiver.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Ensey whose telephone number is 703-305-7363. The examiner can normally be reached on Mon-Fri: 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 703-305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

(703) 872-9306, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".

Hand-delivered responses should be brought to: 220 South 20<sup>th</sup> Street, Crystal Plaza Two,  
Lobby, Room 1B03, Arlington, VA 22202

Art Unit: 2643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BKE

November 11, 2004

  
CURTIS KUNTZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600